

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

DARREN HARRIS,

Plaintiff,

v.

KIM, et al.,

Defendants.

Case No. 1:05-cv-00003-AWI-SKO (PC)

ORDER DENYING MOTION FOR  
ISSUANCE OF SUBPOENA DUCES  
TECUM

(Doc. 186)

Plaintiff Darren Harris, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on January 3, 2005. This action is proceeding on Plaintiff's fourth amended complaint against Defendants Olivarria, Williams, and Kim for violation of the Eighth Amendment, and against Defendants Olivarria and Lowden for violation of the First Amendment.

This case is set for jury trial on January 26, 2016. On October 16, 2015, Plaintiff filed a motion seeking the issuance of a subpoena duces tecum commanding Defendants to produce the Department Operations Manual for his use at trial. Fed. R. Civ. P. 45. Defendants did not file a response. Local Rule 230(*l*).

Notwithstanding Plaintiff's attempt to seek documents from the opposing parties via a Rule 45 subpoena rather under Rule 34, the time to seek the production of documents from Defendants was during discovery. *See* Fed. R. Civ. P. 34(a). Discovery is now closed and

1 Plaintiff lacks entitlement to seek any documents from Defendants for use at trial. Accordingly,  
2 Plaintiff's motion is HEREBY DENIED.

3  
4 IT IS SO ORDERED.

5 Dated: November 16, 2015

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE